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SMALL BUSINESS ACT AMENDMENTS, 1959

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P66-56

HEARING

BEFORE

SUBCOMMITTEE NO. 3

OF THE

COMMITTEE ON BANKING AND CURRENCY

HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH CONGRESS

FIRST SESSION

AUGUST 14, 1959



Printed for the use of the Committee on Banking and Currency



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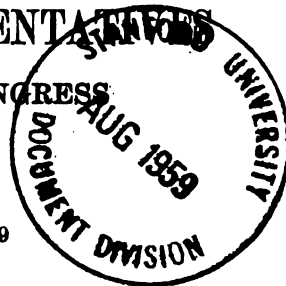
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SMALL BUSINESS ACT AMENDMENTS, 1959

FRIDAY, AUGUST 14, 1959

HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING AND CURRENCY,
SUBCOMMITTEE No. 3,
Washington, D.C.

The subcommittee met at 10 a.m., Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Reuss, Miller, Bass, and Siler.

[H.R. 8599, 86th Cong., 1st sess.]

A BILL To amend the Small Business Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Act Amendments of 1959".

SEC. 2. As used in this Act, unless otherwise indicated, references to "the Act" are to the Small Business Act, approved July 18, 1958 (72 Stat. 384), as amended by the Small Business Investment Act of 1958, approved August 21, 1958 (72 Stat. 689).

SEC. 3. Subsection 4(c) of the Act is amended—

(1) by striking out "\$900,000,000" each place it appears and inserting in lieu thereof "\$1,100,000,000"; and

(2) by striking out "\$500,000,000" where it appears in the fifth sentence and inserting in lieu thereof "\$700,000,000".

SEC. 4. Subsection 5(b) of the Act is amended by adding at the end thereof a new paragraph (10) to read as follows:

"(10) Section 3648 of the Revised Statutes (31 U.S.C. 529) shall not apply to prepayments of rentals made by the Administration on safety deposit boxes used by the Administration for the safeguarding of instruments held as security for loans or for the safeguarding of other documents."

SEC. 5. Section 10 of the Act is amended—

(1) by striking out "every six months" from the first sentence of subsection

(a) and inserting in lieu thereof ", on June 30 of each year,";

(2) by striking out "and December 31" from subsection (b);

(3) by striking out subsection (c); and

(4) by respectively redesignating subparagraphs (d), (e) and (f) as (c), (d) and (e).

SEC. 6. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. PATMAN. The committee will please come to order.

We have met today to hear the Honorable Wendell B. Barnes, Small Business Administrator, testify on H.R. 8599.

The principal purpose of this bill is to increase the authority of the Small Business Administration to make loans under its business loan program. This is, in a sense, emergency legislation. SBA is approaching the limit of its authorization. While it may be possible for the agency to continue into early next year under the lending authority of the present law, I feel strongly that this is not the sort of gamble we should take.

Presumably Congress will adjourn soon. I am sure the members of the subcommittee will agree that we should not run the risk of SBA's business loan authority running out during the adjournment. I hope we can report this bill out promptly without lengthy hearings, and that we can defer consideration of other possible changes in the Small Business Act until next year, when there will be more opportunity to give them full consideration.

Mr. Barnes, we are delighted to have you as a witness this morning. You can either read your prepared statement or you can insert it in the record and comment extemporaneously as you desire.

**STATEMENT OF WENDELL B. BARNES, ADMINISTRATOR,
SMALL BUSINESS ADMINISTRATION**

Mr. BARNES. Mr. Chairman and gentlemen of the committee, it is a pleasure to appear before this subcommittee to comment on H.R. 8599, to amend the Small Business Act and to summarize the progress this agency has made since this law was enacted last year.

At this point, I would like to file the full statement which reviews the various activities of the agency, but then turn to page 13 of the statement to discuss only the recommendations relating to the Small Business Act. At the conclusion of this portion of the statement I will then informally review the activities of the agency by reference to charts, which I think will be easier to follow.

Mr. PATMAN. You may insert what you desire, sir, and we shall be very glad to hear you on the charts.

Mr. BARNES. As you know, the Small Business Administration operated under limited tenure during the first 5 years of its existence. This limitation was removed on July 18, 1958, by enactment of the Small Business Act, a statute which gave the agency new duties and broadened its existing programs. I would like to speak briefly of some of these old and new responsibilities.

PROCUREMENT AND TECHNICAL ASSISTANCE

I am particularly pleased that I can report progress and significant accomplishments during the past year in each of the major programs in this area. These accomplishments are discussed in detail in the "Report on Procurement and Technical Assistance Programs," which I have prepared for the committee.

We have concentrated a large part of our efforts in the past year on the two new functions added by the permanent legislation—research and development assistance and helping small firms to obtain an opportunity to participate in the property sales and disposal programs of the Government, including timberland.

In the field of research and development, we had already been rendering assistance to small business to some degree, and this program is now being expanded to encompass all phases anticipated by the new legislation.

During the past year, we established liaison with the principal Government agencies that have continued R. & D. programs and are concerned with the SBA activities in this respect. We have set up a scientific working board, composed of representatives from Government agencies and industry, to advise with SBA on policies and

operations so that our activities in this field of endeavor will implement more fully the intent of Congress, and the agency can render the greatest possible aid to small firms in this increasingly important area.

Our Washington and field offices are staffed with a skeleton force to get the program underway in the field. During fiscal year 1959, contracts for research and development amounting to more than \$17 million were set aside for exclusive award to small business.

In December 1958 we published a directory of small firms desiring to perform research and development work, and with this as the basis we are now in the process of updating this directory and setting up a registry of small business facilities capable of performing research and development.

A major area in which small business participates in research and development work is through subcontracting. SBA is endeavoring to work with both large and small firms to enhance these opportunities of small business. Quite often small firms specializing in certain fields of research are needed to perform parts of prime R. & D. contracts. We therefore furnish to those small firms seeking information regarding R. & D. work the names of prime contractors and the nature of the overall requirements of the prime contracts. However, when we consider the increased importance placed on subcontracting by the Department of Defense and the subcontracting opportunities offered by the 400 major prime contractors, we can only undertake to provide assistance to small businesses on a minimum basis.

Another new program—the SBA property sales assistance program—has been established and field operations are now underway. After consulting with trade associations, small loggers, and mill operators, a definition of small business, for the purpose of setting aside timber sales, has been adopted. Cooperative working agreements are in effect with the Forest Service, Department of Agriculture and Bureau of Land Management, Department of the Interior, for the purpose of assuring small businesses the opportunity to receive a fair proportion of the Government-owned timber placed for sale.

To date, the SBA, in cooperation with the Forest Service and the Bureau of Land Management, has made 87 set-asides for timber sales amounting to approximately \$3 million.

We are now working with the General Services Administration on a memorandum of understanding which will cover the disposal of surplus personal and real property under its jurisdiction. When this agreement is reached, we will make similar proposals to the Department of Defense, as that agency is operating under authority delegated by GSA.

In the interim, while these agreements are being worked out, we are laying the groundwork in the field for an effective program. Our field offices are making an inventory of government surplus property disposal locations in each region, and have arranged to receive copies of invitations in order to provide guidance to small firms interested in buying property offered for sale—such as where, when, and how to bid on property sales.

In order that local business concerns and interested individuals may be provided the opportunity to bring to our attention facts and opinions regarding the timber set-aside program, a hearing will be held in Portland, Oreg., August 26-27. Persons unable to attend

are invited to submit written statements to become a part of the hearing records.

We have continued to make progress in setting aside procurements for competitive bidding by small business concerns. Comparing fiscal years 1954 through 1959, there has been a constant increase in the amount of procurements set aside for small business. This past year, we have marked a new high in the dollar amount of set-asides—a total of \$1,142 million.

Of equal importance has been the increase in the number and amount of contract awards to small business firms resulting from these set-aside actions. The number of awards has increased from 18,149 in fiscal year 1958 to 24,800 in fiscal year 1959. The dollar amount of these awards increased from \$676,749,212 in fiscal 1958 to \$848,750,318 in fiscal 1959.

We have 37 representatives assigned to 90 of the major Government procurement installations on a regular basis, and as just mentioned, the amount set aside for small business during this past fiscal year has reached an all-time high. However, we are also aware that there are more than 200 major military and civilian offices where it is believed an effective set-aside program could be conducted.

To assist small firms in their undertaking to perform Government contracts, set aside or not set aside, information is available through our field offices on the many aspects of Government contracts: how to get on bidders lists; contractual rights; how to have payments expedited; the everchanging rules and administrative decisions by Government offices; where competition is needed; where specifications may be obtained—and other problems encountered by small firms in their effort to get a portion of the large amount of Government procurement dollars expended each year.

We received 256 applications for certificates of competency during fiscal year 1959 and, of this number, 121 certificates were issued amounting to \$23,234,060. This is only part of the story, however, because it has been necessary to make a number of plant surveys in connection with the certificate inquiries. This preliminary work by our field offices has resulted in 71 contract awards without formal COC action. Further, when a certificate of competency is issued, SBA makes frequent periodic followups to insure maintenance of a high standard of contract performance. The agency has issued a total of 553 certificates through June 1959, valued at more than \$87 million since the start of this program in 1953. The estimated savings to the Government through the issuance of the certificates of competency is approximately \$8,200,000.

Recently some question has been raised as to whether a certificate of competency issued by SBA covers only the credit and the physical capacity of a prospective contract award, or whether it is conclusive upon the contracting officer as to such elements of responsibility as experience, skill, know-how, technical knowledge, quality of production, quality of personnel, judgment, and sound management.

On June 24, 1959, the Comptroller General issued an opinion (B-139366) stating that in the view of the Comptroller General all the elements of responsibility relating to a prospective contractor's ability to perform, such as experience, skill, know-how, technical knowledge, and so forth, are included within the certificate of competency. I am submitting a copy of this opinion for the record.

B-139366

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 24, 1959.

The Honorable the SECRETARY OF THE ARMY.

DEAR MR. SECRETARY: Reference is made to a letter dated June 9, 1959, with enclosure, from the Assistant Secretary of the Army (Logistics), furnishing the report requested by our Office by letter of April 27, 1959, in connection with the protest of Ameco Electronic Corp. against the award of a contract to any bidder other than itself under invitation for bids No. SC-36-039-59-1651-A3, issued on January 14, 1959, by the Signal Supply Agency.

The invitation requested bids, under a small business set-aside, for the furnishing of a quantity of frequency meters (AN/URM-80) ranging from 262 to 1,150 each. In response thereto, bids were received from six prospective contractors. Upon the opening of bids on February 10, 1959, the lowest apparent bid in the net total amount of \$509,821 was submitted by Ameco. The Lavoie Laboratories, Inc., submitted the next lowest net total bid in the amount of \$514,639. Since Ameco was considered delinquent by the contracting officer in the performance of a current contract (No. DA-36-039-SC-74669) for 287 AN/URM-80 frequency meters, Ameco's bid was submitted to the contractor evaluation board of the Signal Supply Agency on February 18, 1959, for a preaward qualification determination. On March 11, 1959, the board determined that Ameco was not responsible due to deficiencies in past performance, technical ability, and finances, including a lack of know-how. The contracting officer concurred in this determination of nonresponsibility.

Pursuant to the provisions of section 1-705.6 of the Army Procurement Procedures, and since the contracting officer reported that he could not disprove the possibility that Ameco's poor past performance was due to its lack of technical ability and financial resources, the low bid of Ameco was submitted to the Small Business Administration (SBA) on March 12, 1959, for consideration as to whether a certificate of competency should be issued to Ameco. SBA issued a certificate of competency to Ameco on March 27, 1959. As the result of an informal meeting with representatives of SBA and the procurement agency on April 6, 1959, the certificate was reviewed and reconsidered by SBA. The certificate was reaffirmed by SBA and the contracting officer was so advised on April 15, 1959. However, it is the opinion of the Department of the Army that the certificate of competency issued by SBA to Ameco is not conclusive upon the contracting officer since such elements of responsibility as experience, skill, know-how, technical knowledge, quality of production, quality of personnel, judgment, and sound business management of a prospective contractor are not within the purview of the certificate of competency. That is to say, the Department views the certificate as going only to the credit and the physical capacity of a prospective contractor to perform.

Section 8(b)(7) of Public Law 85-536, approved July 18, 1958, empowers the SBA:

"(7) to certify to Government procurement officers, * * *, with respect to the competency, as to *capacity and credit*, of any small-business concern * * * to perform a specific Government contract. In any case in which a small-business concern * * * has been certified by or under the authority of the Administration to be a competent Government contractor with respect to *capacity and credit* as to a specific Government contract, the officers of the Government having procurement * * * powers are directed to accept such certification as conclusive, and are authorized to let such Government contract to such concern * * * without requiring it to meet any other requirement with respect to *capacity and credit*; * * *." [Italic supplied.]

In support of the Department's opinion, it is contended that an interpretation of the term "capacity" as used in the above-quoted provision to include all elements of responsibility set forth in section 1.903.1 of the ASPR not only would be in conflict with 10 U.S.C. 2305(c) and prior decisions of our Office but if allowed to prevail could impair the ability of the military departments to properly perform their mission of safeguarding the national security. In that connection, reference is made to the legislative history of the Armed Services Procurement Act of 1947 wherein the cognizable committees of the Congress indicated that the procurement agencies are best qualified to evaluate whether a bidder is a "responsible bidder" on the basis of his experience, size, technical organization, reputation, financial resources and other factors. It is, therefore, concluded that such legislative history is a clear indication that the term "responsible bidder" was meant to encompass more than mere "capacity." It is further contended that

such view is in accord with decisions of our Office wherein it was held that procurement officers are required to consider not only the financial resources of a bidder but also judgment, skill, integrity, fitness, capacity, and ability, citing 26 Comp. Gen. 676; 30 id. 235; 33 id. 549; 34 id. 86.

In particular, attention is directed to the decision reported at 37 Comp. Gen. 676, which held, in effect, that a certificate of competency is not determinative where a bidder is found not to be qualified for reasons other than capacity and credit as, for example, lack of integrity or a consistent record of default, and to the decision of February 24, 1959, B-138233, wherein it was held that a bidder's deficiencies in the area of business practices are not subject to certification of competency by SBA.

We do not believe that it is appropriate or necessary to discuss or attempt to resolve the conflict between the Department's determination that Ameco is not a responsible bidder and the determination made by the SBA as evidenced by the certificate of competency issued to Ameco. The only question involved here is whether the term "capacity" as used in section 8(b)(7) of the Small Business Act includes all those elements of responsibility relating to the overall technical ability of a prospective bidder to produce the end-item called for by the invitation for bids.

As stated on page 2 of the report from your Department, the Congress intended by enacting the Armed Services Procurement Act of 1947 to encourage the exercise of judgment by contracting officers to determine the responsibility of prospective contractors through an evaluation of their experience, size, technical organization, reputation, financial resources, and other factors. The obligation and right of contracting officers to exercise this discretionary authority long has been recognized by the courts and our Office. (See 27 ALR 2d 906 and annotations collected under note 5 thereof; *United States Wood Preserving Company v. Sundmaker*, 186 F. 678; 37 Comp. Gen. 430; 36 id. 42; 30 id. 235.) While the 1947 act, now codified in 10 U.S.C. 2301, et seq., vested in the contracting officer the entire responsibility to determine the qualifications of prospective contractors, the later enactments of small business legislation culminating in the enactment of the Small Business Act, Public Law 85-536, limited that discretionary authority with respect to the competency, as to capacity and credit, of a small business concern competing for a Government contract. Certainly there can be no question that the obligation or authority of a contracting officer to determine the financial resources of a small business bidder does not exist where a certificate of competency has been issued to such bidder.

The word "capacity" as used in section 8(b)(7) of Public Law 85-536 is not defined therein nor is any light shed upon its intended meaning by the legislative history of that act. It is defined by standard dictionaries as "legal qualification, competency, power, or fitness." The term also has been defined as synonymous with "ability." The Congress first recognized the need for Government assistance to small business at the beginning of World War II. In the Senate hearings before the Committee on Banking and Currency on S. 2250, 77th Congress, 2d session, Senator James E. Murray, then chairman of the Senate Small Business Committee, testified as follows on page 11.

"Senator MURRAY. Well, of course, this Division of Small Business Production that would be set up in the War Production Board would make a study of the particular plant, its tools, and its capacity, and would be able to determine whether or not it could participate in war production; and, having determined that it could—and, of course, it would be advised by expert engineers and technical experts—and if it was found that it was capable of manufacturing things for war purposes then that Division would certify that plant as competent to take a contract, and the procurement officers would be authorized to deal with them. Also, if it was found, after that Division had made an examination and investigation of the plant, that it required a certain amount of necessary financing in order to enable it to get the necessary tools to perfect its plant so as to take war contracts, it would be entitled to a loan for that purpose which the Loaning Division would be directed to extend.

"Senator RADCLIFFE. Would the discretion be entirely in the Division of Small Business Production—because the language of the last part of the section states that they shall be authorized to let Government procurement contracts to such concern without requiring it to meet any other requirements with respect to capacity or credit."

"Senator MURRAY. Well, with respect to capacity or credit.

"Senator RADCLIFFE. Capacity or credit.

"Senator MURRAY. That is to say, if the investigation showed it had the machinery there to turn out a contract, why, those procurement officers should not reject it and refuse a contract merely because it did not have a credit standing, and so so forth; this board would determine whether it had the capacity and the credit, and when it certified that to the procurement officers the procurement officers should consider it as a war industry and should undertake to contract with it."

See, also, to the same effect, pages 36 through 38 of the House hearings on S. 2250 and H.R. 6975 before the Committee on Banking and Currency on April 27, 1942. S. 2250 was enacted as Public Law 603 (56 Stat. 351), and section 2 thereof provided that the Chairman of the War Production Board was directed—

"(6) to certify to Government procurement officers with respect to the competency, as to capacity and credit, of any small business concern or group of such concerns to perform a specific Government procurement contract."

Section 3 of that act made the certificate of competency conclusive on procurement officers.

Officials of the Small Defense Plants Administration testifying on behalf of H.R. 5141, 83d Congress, 1st session, which was enacted as Public Law 163, title II, of which was the Small Business Act of 1953 (67 Stat. 232-240), stated on page 197 of the Senate hearings that the certificate of competency covers " * * * the ability to produce, and on time, in the quality and quantity desired * * *." The Department of Defense by letter of May 21, 1953, to the chairman of the Senate Committee on Banking and Currency made the following statement regarding certificates of competency contemplated by the proposed legislation:

"Under section 13 procurement officers would be required to accept the new agency's certification of capacity and credit as conclusive. This would permanently remove from procuring officers the power to determine these essential contractual elements while they nevertheless retained responsibility for the results of their procurement operations. It is not believed that such a division of responsibility is warranted or desirable on a permanent basis."

However, the Congress enacted H.R. 5141 as Public Law 163 and it was specifically provided in section 212 thereof that SBA was directed—

"(d) to certify to Government procurement officers with respect to the competency, as to capacity and credit, of any small business concern or group of such concerns to perform a specific Government procurement contract;"

Particularly significant is the following statement of Representative Patman on page 9154 of the Congressional Record for July 30, 1951, wherein he discussed the Small Defense Plants Administration authority to issue certificates of competency under the Defense Production Act Amendments of 1951 (65 Stat. 142):

" * * * This group, the Small Defense Plants Administration, will be able to investigate the credit standing and the ability to perform of any concern in the United States for a rating for that concern, and whatever this agency says about the credit standing and the ability to perform will be taken as conclusive by any agency of our Government, and that is a very valuable feature, I must insist. Like it is now, when a procurement agency is anxious to let a contract of some kind for the manufacture of an essential war machine, what does the procurement officer do? Just like you would do or just like I would do. He gives it to a big concern like General Motors or General Electric, a concern about which there is no doubt as to its ability to perform or as to its credit rating. Then if there is some mistake made about that contract you cannot blame the procurement officer because he used good judgment, whereas if he had taken your concern in your district, which is just as good as any little concern in the world could possibly be, and whose credit rating is good and whose ability to perform is excellent, and then something happened, the procurement officer would be blamed. But that is the object of this provision, and that is to place the responsibility in an agency to certify financial standing and ability to perform which shall be conclusive to that procurement officer. Then if he gives it to the small concern, nobody can criticize him. He is not vulnerable, and I think that is an excellent provision."

In view thereof, we are of the opinion that "capacity" as used in section 8(b)(7) has reference to the overall ability of a prospective small business contractor to meet quality, quantity, and time requirements of a procurement as to which a certificate of competency has been issued to the small business concern.

The decisions of our Office relied upon in support of the position of your Department (such as 26 Comp. Gen. 676; 30 id. 235; 33 id. 549; and 34 id. 86), did not involve cases wherein certificates of competency were issued to a prospective contractor, but rather involved situations wherein the contracting officer solely

1. The first step in the process of the investigation is the identification of the subject. This is done by the use of the subject's name, address, and other identifying information. The subject is then located and interviewed. The interview is conducted in a confidential manner and the subject is assured that the information provided will be kept confidential. The subject is then asked to provide a statement of the facts of the case. This statement is then reviewed and compared with the information obtained from the subject's background check. The results of the investigation are then reported to the appropriate authorities.

The Department is open to all small business participants in Government programs and is active in production matters and product development problems. We provide technical and product information, assistance in securing engineering plant layout, quality, and product inspection. We are providing sources of sources of technical information, product research and development, new product potential, product requirements, product and market development, new and potential sources for raw and reprocessed materials. We maintain a clearing house for information on available products and processes which may be helpful in improving the competitive position of small business and will permit diversification and expansion or result in more economical utilization of plant capacity.

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FINANCIAL ASSISTANCE

The demand for SBA business loans has increased considerably in the fiscal year 1959. A record number of loan applications—10,213—were received during the year, compared to 7,898 for the fiscal year 1958. This is a rise of 29 percent. The high level of activity which began in March of 1958 was interrupted in December, but picked up again shortly after the first of the year, and in March 1959 applications totaled 1,083.

It is difficult to project figures on loan application activity. The increase which we have experienced this year in business loan applications indicates a new phase of enlarged loan activity. There are four underlying reasons in my mind to account for this new development:

First, there is an increased consciousness and awareness in the business community and among bankers of the Small Business Administration and its loan facilities. The widespread interest and publicity surrounding the Small Business Investment Act has indirectly contributed to an enlarged loan activity by advertising our existence.

Second, we are in a period of vigorous recovery from the recent recession. Small business is sharing in the recovery and many new small businesses are being formed as reflected by the record rate of new business incorporations. This too is increasing the demand on us for small business credit.

Third, the acceleration in private bank credit, we might almost call it a boom, which started during 1955 has been in progress now for several years. Portfolios of private banks are now filled on certain types of loans and most particularly on term loans which are normally a small fraction of the total loans of a commercial bank if they are made at all. Small businesses which have the lowest priority on term loans are being turned away and come to the Small Business Administration.

Fourth, is the extremely favorable loan rate of the Small Business Administration as enacted in the Small Business Act of 1958, 5½ percent lowered from the previous 6 percent maximum rate. When the SBA commenced operations, our rate was above prevailing interest rates in certain areas. During the past few years, however, private interest rates have been moving upward and the favorable 5½ percent rate fixed by Congress undoubtedly encourages many sound small business borrowers to apply to the Small Business Administration.

While on the subject of interest rates, I might mention that legislation enacted in the last session of Congress, making SBA a permanent agency, also removed the ceiling on the rate of interest which can be charged by banks on their share of participation loans. Participating banks therefore can now set any reasonable and legal rate on the whole of a deferred participation loan until such time as SBA purchases its agreed percentage of the loan. This change permits banks a reasonable net return after deduction of the participation fee charged by SBA. We are continuing to work with banks and to improve our administrative procedures to make the participation loan program more attractive. Increasing the number of deferred participation loans will permit a greater number of loans to be made and serviced with the same amount of SBA funds.

A counteractive force may develop in the future which will reduce the number of our regular loans. Small business investment companies have been licensed for operation, and more will be licensed. It is possible that their operations will somewhat reduce the demand for SBA loans although it is difficult to predict the level of their activity in the first year of their existence.

SBA business and disaster loans being serviced increased from about 12,600 at the beginning of the fiscal year to approximately 16,900 at the end of the year.

We have started decentralizing loan administration functions to the branch offices from the regional offices. This action will make counseling assistance available to more borrowers on a local level and reduce travel costs incurred in servicing our loans. Better administration should also result from the more frequent contact at the local level. As the agency matures, the greater portion of total financial assistance personnel will be required in the meeting of borrower's continuing needs through watchful and helpful loan servicing efforts.

I would like to be able to report that all of our loans are current and that no losses have been incurred. However, considering the nature of our loans and the economic situation in the recent past, I feel that our delinquency record speaks well for the small business firms involved.

Through June, only 93 business loans have been charged off with a resulting principal loss of \$945,866, which is about two-tenths of 1 percent of the amount disbursed. As of the same date, 375 loans were in liquidation with the unpaid principal balance amounting to approximately \$11 million. It is anticipated, of course that collateral in most instances will minimize any loss. If, however, the same loss experience applies to these loans as has occurred in connection with the loans actually charged off, the collateral to be liquidated will reduce the ultimate loss to the Government to approximately \$7.7 million. This, coupled with the losses recorded through June 1959, would amount to about \$8.6 million, or about 1.8 percent of the agency's share of the loans disbursed.

In addition, 344 business loans, with an unpaid principal balance of \$12.5 million, were delinquent in excess of 60 days. The agency analyzes each delinquent loan in a sympathetic manner, with a view toward assisting the borrower in overcoming his difficulties and at the same time protecting the Government's investment.

MANAGEMENT AND RESEARCH ASSISTANCE

The SBA management and research assistance programs continue as a growing source of practical information for owners and managers of small concerns. As the members of this committee may know, I have established a new Office of Management and Research Assistance so that this important function of the agency can efficiently be developed to its greatest potentiality. I know of no program of this agency which can contribute more to strengthen small business and do it at less cost than management and research assistance programs.

Section 602 of the Small Business Investment Act added a section to the Small Business Act, section 7(d), which provides an entirely new program for the development and dissemination of management and research information to the small businesses. SBA is authorized

to make grants to State agencies, State development corporations, colleges, and universities for studies and research concerning the managing, financing, and operating of small business concerns. The act provides that these grants are to be made to carry out the purposes of section 8(b)(1) of the Small Business Act; that is, to provide managerial aids to small business concerns by advising and counseling on good management practices, by cooperating with nonprofit organizations for this purpose, by maintaining a clearinghouse for this information concerning small business management and by disseminating such information. The availability of these grants is limited to one within a State in any 1 year in an amount not to exceed \$40,000.

Regulations establishing this program were issued March 13, 1959. During the last fiscal year, more than 100 applications for grants were received from the 49 States, Hawaii, the District of Columbia, and Puerto Rico. Fifty-two grants were made last June. Applications for grants for fiscal 1960 are being solicited and will be considered if received before October 31, 1959.

Section 602 of the Investment Act provided \$27,546,311 in a special, indefinite fund for making grants. The fund was derived from repayments by each Federal Reserve bank of the aggregate amount which the Secretary of the Treasury had heretofore paid to such banks under the provisions of section 13b of the Federal Reserve Act. Language inserted in the 1960 Appropriations Act rescinded the unobligated balance of the fund as of June 30, 1959, except that \$2,080,000 is available for the making of grants in 1960. This language will discontinue the program after fiscal year 1960 unless funds are specifically requested and appropriated for this purpose.

In this connection, the rescission of the revolving fund makes it necessary to delete the last sentence of section 7(d) of the Small Business Act, as proposed by Congressman Evins (H.R. 8128), if the grant program is to continue. This change makes it clear that funds are authorized to be appropriated for the grant program. I am advised that section 20 of the Small Business Act would then provide the necessary authority.

The Small Business Administration management publications program continues as a growing source of practical and eagerly sought information for owners and managers of small concerns. In addition, university teachers of business subjects use the publications as class reference material; trade associations supply them to members; and private publishers review and quote them. Professional people serving small business use them in advising clients. The agency publishes seven regular series. As of August 10, 1959, the total number of titles issued was 249 and new titles are being added continually. The older titles are republished as annuals and are sold by the Government Printing Office.

The value of SBA cosponsored administrative management courses for the owners of small business has been proven. The Small Business Administration furnishes administrative guidance and published materials, with educational institutions assuming educational and financial responsibility for the courses. More than 595 administrative management courses have been cosponsored by the agency since the inception of the program about 5 years ago. Over 19,300 small business owners and managers have attended. The unfilled

demand is still great and there will be continuing need for these courses for an indefinite period.

RECOMMENDED AMENDMENTS TO THE SMALL BUSINESS ACT

The Small Business Act, in my opinion, is a sound piece of legislation. However, as one might anticipate, operation under the statute from time to time indicates areas for improvement. There are not many legislative problems since the act was reenacted in August of 1958.

On April 30, 1959, I recommended to the Speaker of the House of Representatives and the President of the Senate a number of changes in the act which we consider to be desirable. In substance, these proposals have since been embodied in bills introduced by Mr. Bass (H.R. 6902), Mr. Moore (H.R. 6925), and Mr. Patman (H.R. 8955). In discussing these amendments, I will cover them as they appear in Mr. Patman's bill.

Section 3 of the bill amends subsection 4(c) of the act in two respects. First, it increases from \$900 million to \$1,100 million the amount in which funds are authorized to be appropriated to a revolving fund in the Treasury for use by the Administration in the performance of the duties imposed upon it by the act. Second, it increases from \$500 million to \$700 million the amount of the revolving fund which may be outstanding at any one time for the purpose of making business loans pursuant to subsection 7(a) of the act.

SBA's projection of probable business loan activities points up the necessity for this increase of \$200 million. Preliminary figures available at this time indicate that as of June 30, 1959, business loans outstanding, together with undisbursed loan authorizations, will total \$424,800,000. This figure is expected to increase to \$566 million as of June 30, 1960, and \$669 million as of June 30, 1961. In addition, prudence requires that the agency have a substantial reserve to cover unforeseeable variations in the factors (such as volume, size of loans, etc.) used in making the estimate.

At this point I would like to introduce a schedule, Mr. Chairman, which shows the exact status of the funds in the revolving fund which have been disbursed through 1959, our estimate for 1960 and 1961, together with our computation of the estimate on which this request is based, showing how much our repayments will be, what we base it on in terms of the size of loans, the average number of applications, and so forth. And I think it would clarify what I have said if this schedule appears at this point.

Mr. PATMAN. Suppose we have an understanding now, if there is no objection, that you may insert anything that you consider relevant and material, in the way of charts and other matter, that you desire to insert, Mr. Barnes. So without objection, it is so ordered.

(The material referred to is as follows:)

Small Business Administration estimated use of business-loan authority, by fiscal years (revised estimates as of Aug. 12, 1959)

[In millions]

	Preliminary, 1959	Estimates	
		1960	1961
Loans outstanding, plus commitments, at start of fiscal year...	\$290.1	\$424.8	\$566.0
Net commitments issued during fiscal year.....	205.1	239.6	269.6
Total.....	495.2	664.4	835.6
Repayments during fiscal year.....	70.4	98.4	136.3
Loans outstanding, plus commitments, at end of fiscal year.....	424.8	566.0	699.3

The estimates of \$239.6 million in 1960 and 1961 for net new loan commitments are based on the following assumptions; in relation to actual 1959:

[Dollars in millions]

	1959	Estimates, 1960 and 1961
Average number of applications per month.....	851	1,100
Withdrawals (10 percent).....	80	110
Approvals (58 percent of net receipts).....	465	575
Cancellations (11 percent of approvals).....	48	63
Net new approvals per month.....	417	512
Average size (SBA share).....	\$40,942	\$39,000

The estimated repayments in the table above are based on a 6-year repayment period.

Mr. BARNES. Section 4 adds a new paragraph to subsection 5(b) of the act, the effect of which is to authorize the Administration to make prepayments of rentals on safety deposit boxes used by it for the safeguarding of instruments and other documents held as security for loans made to small business concerns and others.

SBA commonly accepts bearer bonds, stock certificates endorsed in blank, and other kinds of readily negotiable instruments as collateral on loans made pursuant to section 7 of the act. Ordinary care would require that regional offices of the agency should, on receipt of such documents from borrowers, retain them in safety deposit boxes. Such boxes are usually rented on an annual basis and, with few exceptions, banks demand payment in advance.

By letter of June 3, 1955, SBA was notified by Mr. Frank H. Weitzel, Assistant Comptroller General of the United States, that section 3648 of the Revised Statutes prohibits such prepayments. The statute cited by him provides, in part, that—

No advance of public money shall be made in any case unless authorized by the appropriation concerned or other law.

Consequently regional offices have been able to use safety deposit boxes only by obtaining the necessary funds from employees who, at the end of the rental period, claim reimbursement from SBA.

Section 4 of the bill remedies this situation by inserting, in subsection 5(b) of the act, a provision that section 3648 of the Revised Statutes shall not apply to prepayments of rentals made by SBA on safety deposit boxes.

Section 5 effects two substantive changes in section 10 of the act. First, it places the reports which the Administration is required to file, pursuant to subsections 10(a) and 10(b), on an annual basis instead of a semiannual basis. Second, it eliminates the surveys and reports which the Attorney General is required to make pursuant to subsection 10(c).

Subsection 10(a) of the act provides that the Administration shall make a report every 6 months of operations under the act to the President, the President of the Senate, and the Speaker of the House of Representatives, containing the names of the business concerns to whom contracts are let and for whom financing is arranged by the Administration, together with amounts involved, and containing such other information, comments and recommendations as the Administration may deem appropriate.

Subsection 10(b) of the act provides that, on June 30 and December 31 of each year, the administration shall make a report to the President, the President of the Senate, and the Speaker of the House of Representatives, to the Senate Select Committee on Small Business, and the House Select Committee To Conduct a Study and Investigation of the Problems of Small Business, showing as accurately as possible for each such period the amount of the funds appropriated to the Administration that it has expended in the conduct of each of its principal activities such as lending, procurement, contracting, and providing technical and managerial aids.

Under existing law, therefore, SBA must submit two reports every 6 months concerning its operations. These requirements were laid down when SBA was initiated as a temporary agency of the Government to conduct programs, for the assistance of small business, which were considered to be experimental and which were generally expected to be of limited duration. The principal reason for requiring reports at such short intervals was to furnish the President and Congress with information essential to a determination of the recurring question whether the program should be continued.

With the establishment of SBA as a permanent agency of the Government, the need for such frequent reports has been substantially lessened. In view of this, as well as the unnecessary expense involved in preparing and issuing two reports every 6 months, it is believed that SBA should, like virtually all other permanent agencies, report on an annual basis. Under the provisions of section 5, both reports are to be filed on June 30 of each year.

Subsection 10(c) of the act directs the Attorney General to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of the act. He is required to submit to the Congress and the President, at such times as he deems desirable, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

This subsection adds little, if anything, to the authority and responsibilities presently reposed in the Attorney General by the antitrust laws and other statutes. Its presence in the act serves no useful purpose. On the other hand, the subsection, by its peculiar

wording, suggests that the Attorney General must exercise special vigilance over the operations of the Administration to detect and prevent violations of law. This, of course, was not the intent. Indeed, the legislative history of the act indicates that the subsection was inserted inadvertently. For these reasons, section 5 of the bill deletes it from the act.

This concludes my comments on the recommendations.

Mr. PATMAN. Yes, Mr. Barnes. I suspect I had a little something to do with that requiring of reports every 6 months. At that time, you know, this agency was in its infancy, and we were very careful to make sure that everything was done that should be done to help in carrying out the objectives of the law, and I am willing to concede, as one person who at least supported that 6-months provision, that your argument is logical and reasonable, and on the basis of your experience I am willing to yield, I think you are exactly right about it. I don't see in this bill anything controversial, and I hope that we can report it out.

Are there any questions?

Mr. SILER. Is this just an extension?

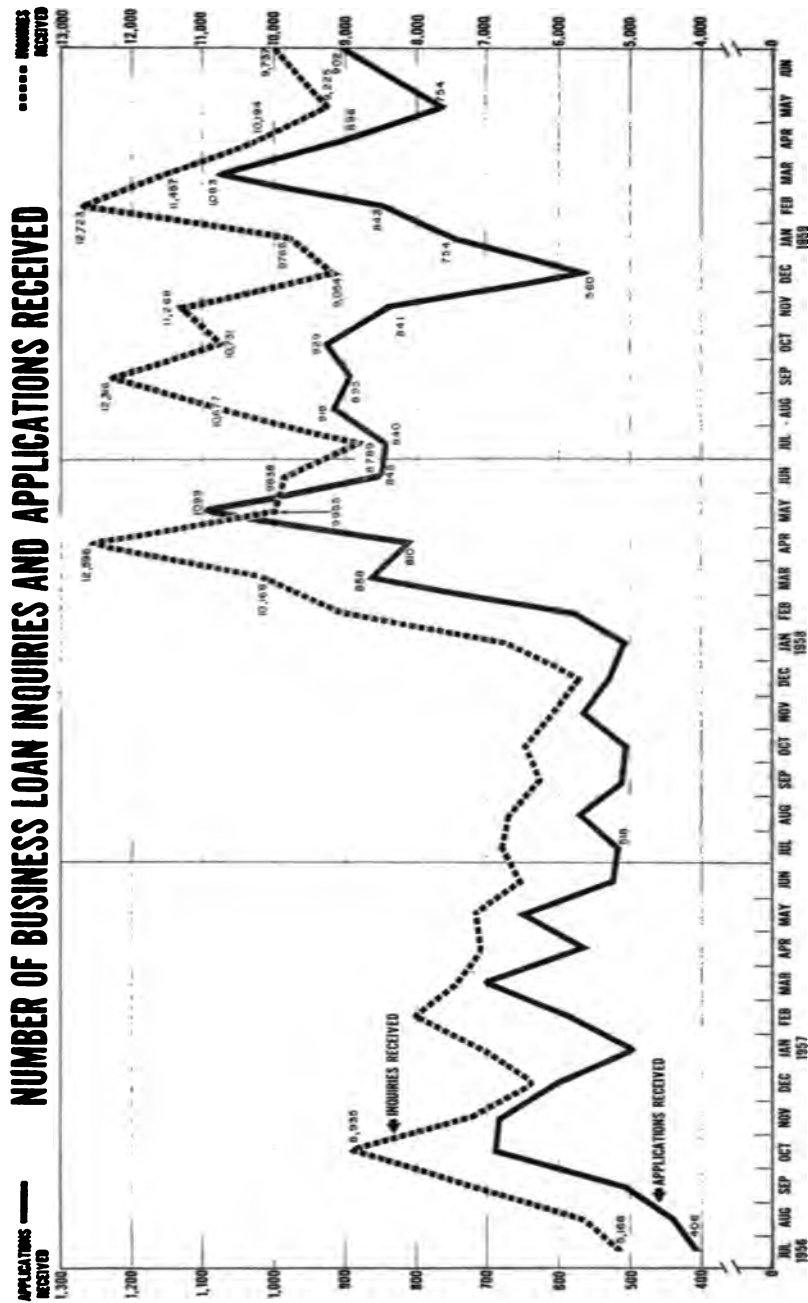
Mr. PATMAN. This is just an extension, plus some amendments to take care of some minor matters relating to the SBA's operations, which are rather burdensome at this time, and they want to be relieved of the burdensome details.

Mr. REUSS. Mr. Chairman, I would hope, in view of the very clear explanation and endorsement of this by Mr. Barnes, and your study of the matter, and that of other subcommittee members, that we can act promptly and favorably on this matter.

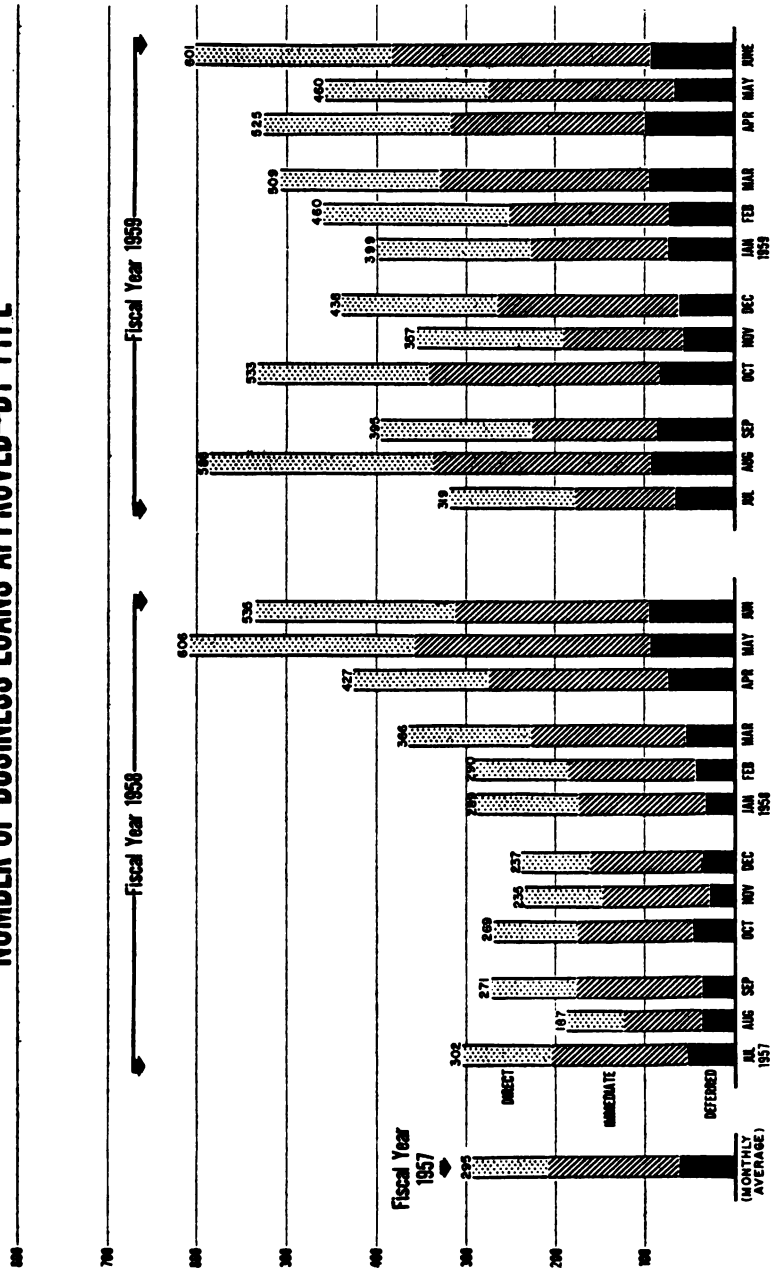
Mr. BASS. Mr. Chairman, I would like to join you in welcoming Mr. Barnes here this morning. As a cosponsor of this bill, I subscribe wholeheartedly with the preliminary remarks you made at the beginning of this hearing. I hope we can secure early action on this necessary measure.

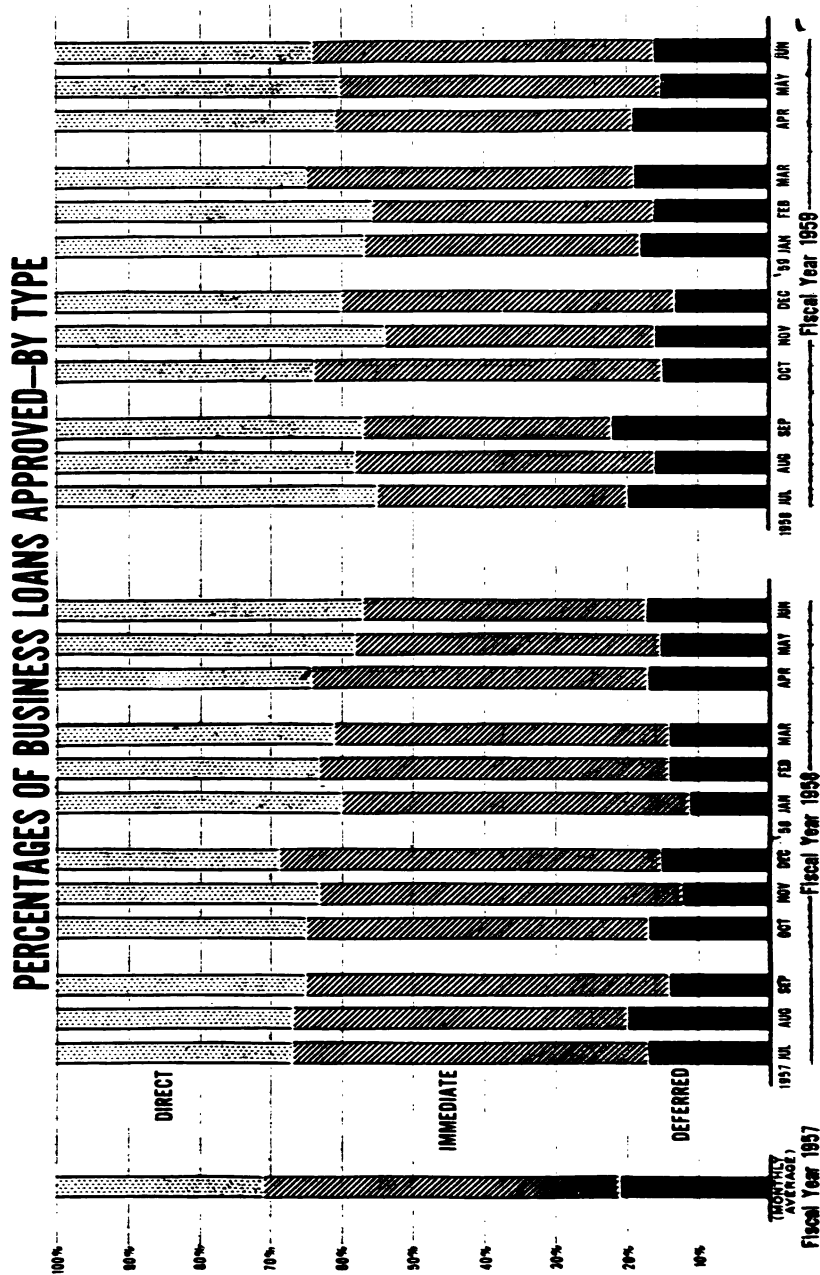
Mr. PATMAN. You may insert any material you desire, Mr. Barnes, even your charts.

Mr. BARNES. All right, sir.

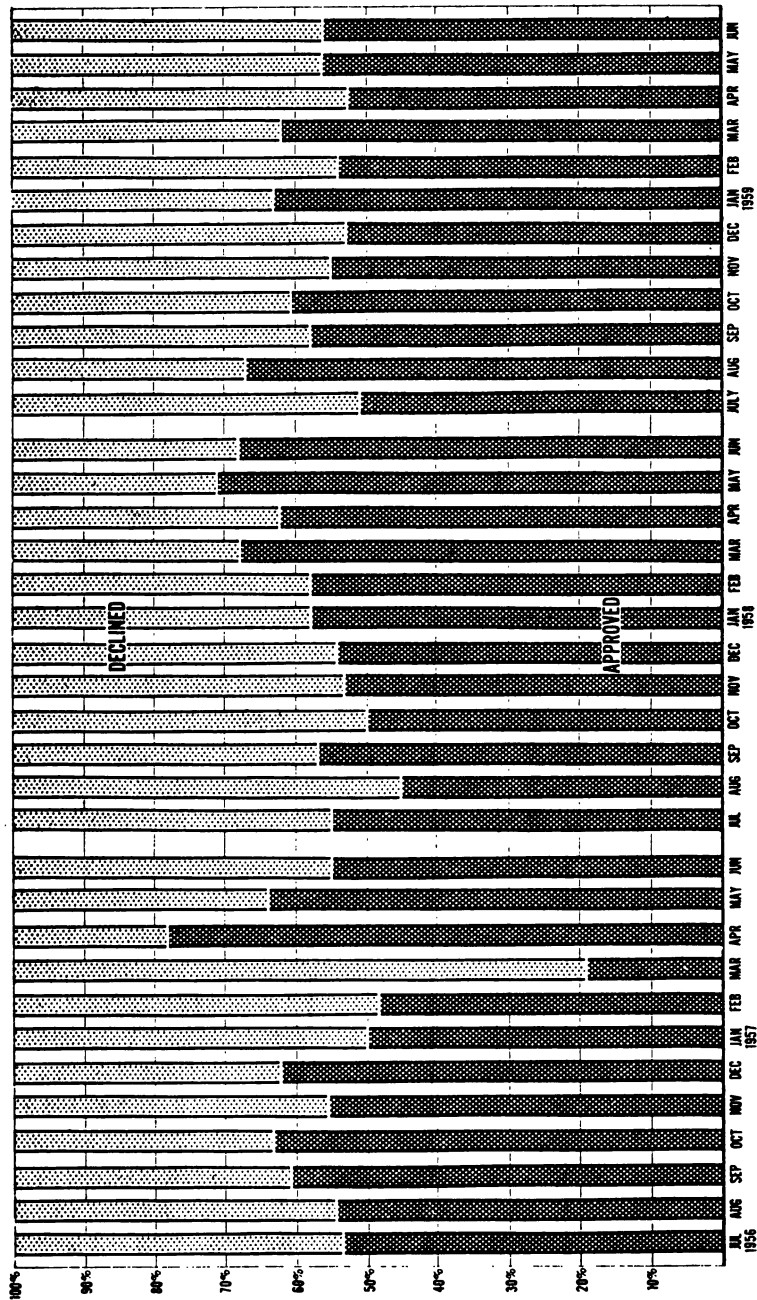


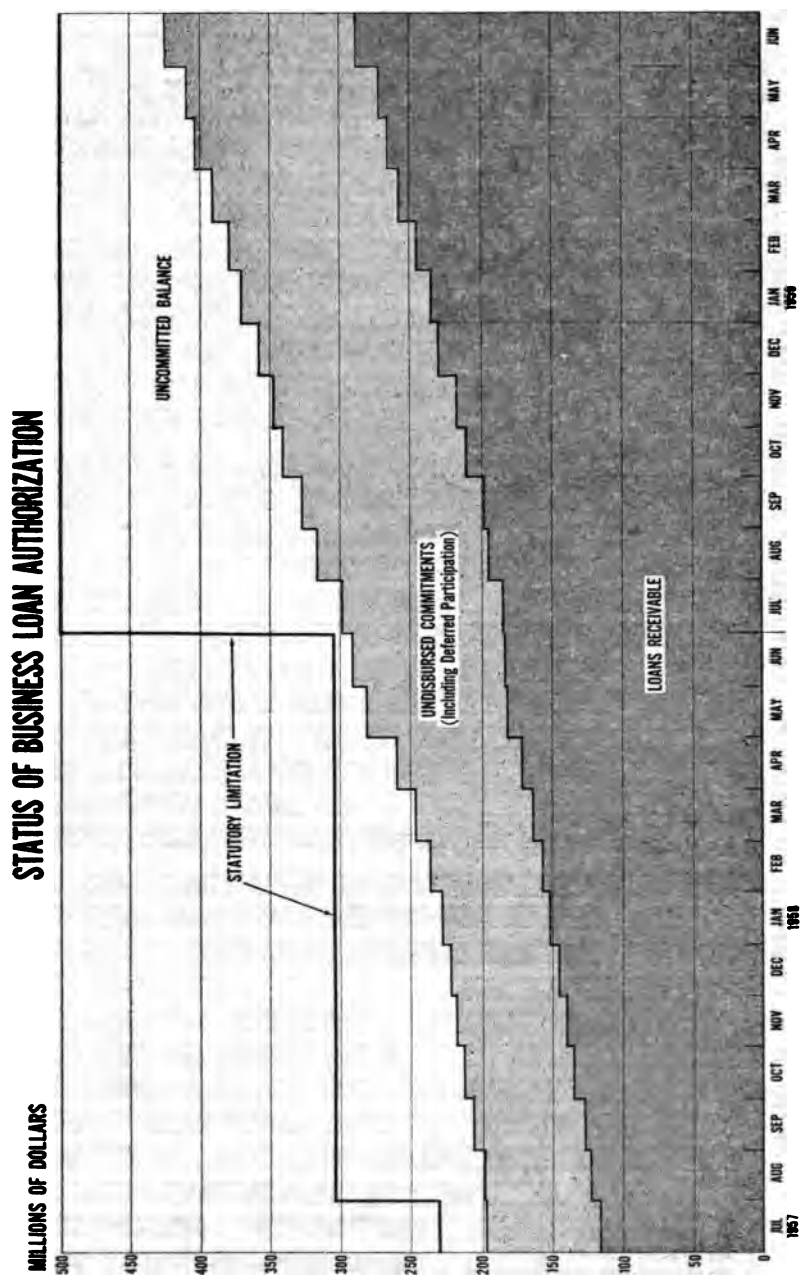
NUMBER OF BUSINESS LOANS APPROVED—BY TYPE





RATIO OF APPROVALS TO TOTAL APPLICATIONS ACTED ON — BUSINESS LOANS





Mr. PATMAN. If there is no objection, we will have an executive session at this time, and we can pass on this bill. Then we can have the hearings printed, including all your material.

Thank you very kindly, sir.

Mr. BARNES. Thank you, sir.

Mr. PATMAN. We will go into executive session.

(Whereupon, at 10:30 a.m., the subcommittee proceeded into executive session.)

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